

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

THOMAS J. CAPANO,
Petitioner,

v.

PERRY PHELPS,* Warden,
Delaware Correctional Center
and **JOSEPH R. BIDEN, III,*** Attorney
General of the State of Delaware,
Respondents.

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: Civil Action No. 06-58 JHB
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* (Substituted pursuant to Fed.R.Civ.P. 25(d))

NOTICE OF APPEAL

Notice is hereby given that Thomas J. Capano, the Petitioner in the above captioned action, hereby appeals to the United States Court of Appeals for the Third Circuit from the District Court's Memorandum Opinion and Order dated April 15, 2008, (D.I. 50), which denied the Petitioner's Petition for Writ of Habeas Corpus under 28 U.S.C. §2254.

Please take further notice that Petitioner will file a separate application for issuance of a Certificate of Appealability pursuant to LAR 22.1(a).

/s/ Joseph M. Bernstein
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Attorney for Petitioner

Dated: April 29, 2008